

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

IN RE:

THOMAS M. TSCHIRHART and
SUSANNE TSCHIRHART,

Case No. 04-14826
Chapter 13
Honorable James D. Gregg

Debtors.

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Susan Jill Rice (P63035)
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STIPULATION FOR RELIEF FROM THE AUTOMATIC STAY

COME NOW Republic Bank, by and through its counsel, Brandt, Fisher, Alward & Roy, P.C.; Debtors Thomas and Susanne Tschirhart (hereinafter referred to as "Debtors"), by and through their counsel, Jeffrey C. Alandt; and Brett N. Rodgers, Chapter 13 Trustee (hereinafter referred to as "Trustee"), and stipulate to a lift of stay, stating as follows:

1. On December 8, 2004, Debtors filed their voluntary petition under Chapter 13 of the United States Bankruptcy Code.

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157(a) and (b).

3. This matter is a core proceeding under 28 U.S.C. § 157(b)(2)(G).

4. On June 10, 1999, Debtors executed a Note, Mortgage and security agreement in favor of Republic Bank, granting Republic Bank a security interest in their business assets, inventory, equipment, accounts, general intangibles, chattel paper, documents, instruments, letter of credit rights, together with any substitutions and replacements thereof, and all products and proceeds thereof as well as their real property described as follows:

Situated in the Village of Central Lake, Antrim County, Michigan: Lot 20, Block “B”, Sisley’s Addition to the Village of Central Lake, according to the recorded plat. Tax Code #05-42-120-020-10,

commonly described as 2134 North M-88, Central Lake, Michigan 49622 (hereinafter collectively referred to as “Collateral”).

5. Republic Bank duly perfected its security interest in the Collateral by filing its Mortgage with the Register of Deeds of Antrim County and filing a UCC Financing Statement with the Michigan Secretary of State.

6. The fair market value of the Collateral is approximately \$115,000.00.

7. As of the petition date, the balance owing Republic Bank was approximately \$117,841.04, plus interest, attorney’s fees and costs of collection.

8. The filing of this case effectuated an automatic stay of any and all collection proceedings against the Debtors.

9. The Debtors are behind in their payments to Republic Bank.

10. The Collateral is not necessary for the Debtors’ effective reorganization.

11. No other party claims a security interest in the Collateral.
12. The Debtors wish to surrender the Collateral.
13. Republic Bank, the Debtors, and the Trustee agree that the automatic stay should be lifted as to the Collateral on the condition that if any surplus is received after sale of the Collateral, it shall be turned over to the Trustee for the benefit of the Debtors' estate.
14. Under the circumstances set forth above, the Court's Order lifting the automatic stay should become effectively immediately, rather than stayed for 10 days as provided in Federal Rule of Bankruptcy Procedure 4001(a)(3).
15. Republic Bank shall have 60 days from the entry of the Court's Order lifting the stay to amend its claim to reflect the sale of the Collateral.

WHEREFORE, Republic Bank, the Debtors, and the Trustee hereby stipulate to the lifting of the automatic stay with respect to the Collateral and ask the Court to enter an Order lifting the automatic stay with respect to the Collateral.

BRANDT, FISHER, ALWARD & ROY, P.C.

Dated: 01/07/05

By: /s/ Susan Jill Rice
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Dated: 01/07/05

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Dated: 01/07/05

/s/ Brett N. Rodgers
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